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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,786	11/12/2003	Terrence W. Schmidt	1934-9-3	7807

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EXAMINER
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OLSON, LARS A

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/712,786

Applicant(s)

SCHMIDT ET AL.

Examiner

Lars A. Olson

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. An amendment was received from the applicant on July 15, 2005.

### *Drawings*

2. The drawings were received on July 15, 2005. These drawings are acceptable.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Propp (US 5,043,065).

Propp discloses the same vessel as claimed, as shown in Figures 1-6, that is comprised of a propulsion system, defined as Part #12, a hull, defined as Part #10, having multiple operating modes in which said hull is operable by means of said propulsion system to be moved from one location to another location, as described in lines 54-59 of column 1, and a ballast system that is operable to select one of said operating modes, as described in lines 9-28 of column 6, by adjusting the level of ballast within said vessel. Said vessel further includes a payload in the form of water, as

described in lines 6-13 of column 3, and said ballast system is operable to select one of said operating modes by adjusting the draft of said vessel using said payload.

Propp also discloses the same method as claimed, as shown in Figures 1-6, that is comprised of the steps of selecting one of multiple hull modes for a water vessel, as described in lines 54-59 of column 1, operating said vessel in a selected hull mode, setting a draft of said vessel to a level that corresponds to a hull mode, adjusting the draft of said vessel to a corresponding level, as described in lines 9-28 of column 6, and adjusting the amount and position of ballast and payload on said vessel.

5. Claims 5-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Barbier et al. (US 5,787,828).

Barbier et al. discloses the same water vessel as claimed, as shown in Figures 1-6, that is comprised of a hull having a first portion and a second portion, defined as Part #11, said vessel having multiple traveling modes in which said hull is operable to move from one location to another location, as described in lines 60-65 of column 2, and a ballast system, as shown in Figure 4, for adjusting the draft of said vessel using a payload, as described in lines 29-41 of column 2. Said ballast system is operable to select a SWATH mode of operation by adjusting the draft of said vessel.

### ***Response to Arguments***

6. Applicant's arguments filed on July 15, 2005 regarding claims 1-19 have been fully considered but they are not persuasive.

7. The applicant first argues that Propp (US 5,043,065) does not disclose a vessel with a propulsion system and a hull having multiple operating modes.

8. The applicant also argues that Barbier et al. (US 5,787,828) does not disclose a vessel with a ballast system that is capable of adjusting the draft of said vessel.

9. In response to the applicant's first argument, Propp discloses a vessel having a propulsion system 12, a hull 10 having multiple operating modes, and a ballast system that is operable to select one of said multiple operating modes. In independent claims 1 and 12, the applicant discloses a vessel having a propulsion system. While propulsion system 12 for hull 10 is in fact a separate pusher vessel from hull 10, it still functions in the broadest sense as a propulsion system for hull 10, and thus meets the limitations of the applicant's claims. Therefore, for the reasons given above, the rejection of claims 1-4 and 12-19 is deemed proper and is not withdrawn.

10. In response to the applicant's second argument, Barbier et al. discloses a vessel with a plurality of ballast tanks for the storage of liquid cargoes, and a conventional piping system that provides controlled fluid communication between said ballast tanks for loading and off-loading of said liquid cargoes, which provides a means by which the draft of said vessel can be adjusted, and thus meets the limitations of the applicant's claims. Therefore, for the reasons given above, the rejection of claims 5-11 is deemed proper and is not withdrawn.

**Conclusion**

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (571) 272-6685.

lo

August 24, 2005

**LARS A. OLSON**  
**PRIMARY EXAMINER**



8/24/05